THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.23961 of 2002

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Dated:16.12.2005

Between:

Vemuri Nageswara Rao S/o.Venkateswara Rao
R/o.6-3-596/77/3, Naveennagar Colony, Hyderabad.

..... PETITIONER

AND

The Secretary, Government of Andhra Pradesh Home Department ,
Secretariat, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.23961 of 2002

ORDER:

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The petitioner filed the present writ petition seeking, *inter alia*, a direction to the respondents to release his passport bearing No.M 001094/95.

The fact of the matter in brief would show that the petitioner is a permanent resident of U.S.A where his wife and two children are working. In 1995, he came to India to start computers software business. For that purpose he borrowed a sum of Rs.11.50 Lakhs from the fourth respondent by mortgaging his agricultural lands situated at Ogirala Village, Krishna District. He alleges that the agent of the fourth respondent forcibly took a post-dated cheque for the said amount as a security. But, subsequently initiated criminal proceedings by filing a complaint on the file of the Court of the IV Metropolitan Magistrate, Hyderabad, for the offence punishable under

Section 420 of the Indian Penal Code, 1860. In connection with the said case, the third respondent, acting on the instigation of the fourth respondent, allegedly seized the petitioner's passport. This was also admitted by one N.Ranga Reddy, the partner of the fourth respondent, as well as Sri Penchal Reddy, the Managing Director of the fourth respondent, in his evidence in C.C.No.101 of 1997. However, the petitioner could not approach the Court as he was waiting to obtain certified copies of these depositions.

The Inspector of Police, P.S.Sultan Bazar, has filed a counter affidavit denying the allegation that the third respondent seized the passport of the petitioner. It is stated that the Police registered Crime No.301 of 1995 under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C), which was subsequently reregistered as Crime No.377 of 1995 and that after completion of investigation a charge sheet was filed. He further stated that after completing the trial, the matter was posted for examination under Section 313 of Cr.P.C. It is reiterated that the Police never seized the passport of the petitioner.

At the time of the arguments, it is brought to the notice of this Court that the case against the petitioner ended in acquittal by reason of judgment dated 03.02.2003. The learned Counsel for the petitioner strenuously contends that the fact that the third respondent seized the passport of the petitioner in connection with the crime is admitted by the Managing Director of the fourth respondent in his deposition in C.C.No.101 of 1997, and therefore, a direction should be issued to the third respondent to release the passport. **Per contra,** the learned Government Pleader for Home submits that if only the petitioner's passport was seized, he would have made a representation either before a criminal Court or ought to have filed a writ petition before this Court. The fact that the writ petition is filed with long delay shows that the petitioner is making false allegation.

After giving anxious consideration to the grievance of the petitioner, this Court is convinced that the Police did not seize the passport from the petitioner. The writ petition is filed on 28.11.2002, alleging that the third respondent seized the passport on 13.12.1995. If really the passport was seized, the petitioner, who is a widely travelled person, would not have kept quiet without either filing an application before the Court of the IV Metropolitan Magistrate, Hyderabad, or a writ petition before this Court. He waited for long and based on the statement in the deposition of PW.2 (Managing Director of the fourth respondent), filed the present writ petition. The said admission in the evidence of PW.2 does not in any manner assist the petitioner and lead to draw an inference that the third respondent seized the passport. Secondly, the case against the petitioner ended in acquittal, and even thereafter, the petitioner did not file any application before the learned Magistrate for redressal regarding the seizure of passport. This would clinchingly show that the writ petition is of incorrect and baseless allegations.

The Writ Petition is devoid of merits and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

16.12.2005

vs